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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,528	10/07/2005	Urs Reuteler	045-102	5960
1009	7590	03/31/2008	EXAMINER	
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			HARMON, CHRISTOPHER R	
		ART UNIT	PAPER NUMBER	
		3721		
		MAIL DATE		DELIVERY MODE
		03/31/2008		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/532,528	REUTELER ET AL.	
	Examiner	Art Unit	
	Christopher R. Harmon	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 March 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6,9-15,19 and 106-112 is/are pending in the application.
- 4a) Of the above claim(s) 9-15 and 19 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 and 106-112 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/07/08</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Interpretation

1. Claims contain limitations (means for conveying, folding, providing, applying or activating) in "means plus function" form and however only the "means for folding" (claim 1 and 109) and arguably "means for providing and conveying along a second leg" (claim 109) meet the analysis set forth in MPEP 2181, for invoking treatment under 35 USC 112, paragraph 6. Note limitations cannot be further modified; furthermore the examiner does not know what the "means for providing a conveying path having an L-shape in plan view" comprises as the conveyors themselves provide the conveying path.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 109 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; as noted supra.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 109-110 and 112 are rejected under 35 U.S.C. 102(b) as being anticipated by Steele (US 3,187,483).

Steele discloses a machine for folding boxes comprising lug conveyors c and e in an L shaped plan; see figure 1 with a takeaway conveyor comprising parallel conveyor chains h, i, 168, and 169 located adjacent and perpendicular to one another; folding means/stationary plows 57 and rollers j, k for first and second flaps respectively; adhesive applicator means n; see figure 1. Lugs are considered retracted and upstanding to selectively engage containers.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6, 9, 106-108, 111 are rejected under 35 U.S.C. 103(a) as obvious over Steele (US 3,187,483).

Steele discloses a machine for folding boxes comprising lug conveyors c and e in an L shaped plan; see figure 1 with a takeaway conveyor comprising parallel conveyor chains h, i, 168, and 169 located adjacent and perpendicular to one another; folding means/stationary plows 57 and rollers j, k for first and second flaps respectively; adhesive applicator means n; see figure 1. Lugs are considered retracted and upstanding to selectively engage containers.

The first conveyor c is not directly disclosed as an overhead conveyor however Steele notes that containers are fed from the closing apparatus “upon a lugged link belt or other appropriate conveyor c” (column 3, lines 56+)

Regarding claim 5, Steele describes closing flaps of the container previous to the engagement of the container by lugged conveyor c, see column 3, lines 55+, however does not discuss the device that closes (at least partially) the flaps. The examiner takes Official Notice that rotatable wheels with radially projecting extention are well known in the art for at least partially closing flaps. It would have been obvious at the time of the invention to close the flaps (at least one partially) of the container of Steele by a rotatable wheel having at least one radially extending projection for closing flaps as the containers passed through the production cycle.

Regarding claims 106 and 108, the conveyor c extends beyond the takeaway conveyor e, therefore an overhead conveyor in the same position would overlie the other as claimed.

8. Claims 4, 107-108 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Steele (US 3,187,483) in view of Moncrief et al. (US 5,638,659).

While lugs of the conveyors of Steele selectively (via controlled rotation of the drive wheels) pop-up/pivot into and out of the conveying path via rotation, pop-up lugs 63 are known in the art as taught by Moncrief et al. It would have been obvious to one of ordinary skill in the art to use pop-up lugs as taught by Moncrief et al. in the invention to Steele in order to further the transport of the containers when desired.

Response to Arguments

9. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R Harmon/
Primary Examiner, Art Unit 3721

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